

REMARKS

This response is submitted in response to the Office Action dated March 23, 2004. At the outset, Applicants note for the record that although the Office Action is marked on page 2 as being Final, this is incorrect. As the previous rejections were withdrawn and new rejections posed, this Office Action cannot be Final. Applicants have confirmed with the Examiner that the Office Action is not Final.

In the Office Action, Claims 9, 11-18 and 20-26 are rejected under 35 U.S.C. § 102 as being anticipated by Reed. Claims 9-26 are rejected as being obvious in view of Reed and Khan. Applicants respectfully submit that each of these rejections is incorrect as a matter of law and fact.

In order to anticipate a claim, each and every element must be present in the reference. Claim 9 requires a medicament in the coating, as does each of Claims 11-18 and 20-26. Reed does not include a medicament in the coating. In fact, the Patent Office does not even mention the word medicament in discussing the § 102 rejection. For this reason alone the rejection is improper.

With respect to the obviousness rejection, the Patent Office cites Khan as disclosing a medicament. However, in contrast to all of the claims Khan fails to disclose or suggest a medicament in the coating.

Indeed, Khan teaches away from this concept. In Khan a sustained release drug is provided by coating a medicament. "The drug delivery system contains a core comprising a medicament and a waxy material and a porous coating layer over the core comprising a pH-independent water-insoluble polymer and a water-soluble film forming polymer." See Col. 2, lines 46-51. The Patent Office's reference to Col. 7, lines 1-6 is inapposite – no medicament is in the coating. In fact, the whole point of Khan is to coat a medicament - in contrast, the present invention place the medicament in the coating.

Therefore, Applicants request that the obviousness rejection be withdrawn as at least one element, the medicament in the core, is neither taught nor suggested by the cited references.

Accordingly, Applicants respectfully request reconsideration of the application and earnestly solicit an early allowance of same.

Respectfully submitted,

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